IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 3657 OF 1999

SMT. SUDHATAI GANPATI PATANKAR)
R/o. Padgaon, Tal. Hatkanangale)
Dist. Kolhapur.) ..PETITIONER

Versus

1. STATE OF MAHARASHTRA)
2. UNION OF INDIA, NEW DELHI)
3. THE COLLECTOR OF KOLHAPUR) RESPONDENTS

Mr. Siddharth Karpe for petitioner
Ms. Molina Thakur, AGP for R-1
Smt. N. V. Masurkar for R-2

CORAM:-SMT. RANJANA DESAI &
A.P. DESHPANDE, JJ.

DATED:-8/8/2006

ORAL JUDGMENT:-(Per Smt. Ranjana Desai, J.)

. The petitioner is aggrieved by the cancellation of the pension awarded to her as a freedom fighter. It is a case of the petitioner that she participated in freedom movement on 5/1/1943 and was arrested. In the year 1983 she applied for freedom fighter's pension to the State Government and also to the Central Government on the basis of

certificate dated 13/11/62 issued by the Mamlatdar Hatkanangale, Dist. Kolhapur certifying that she is a political sufferer and has undergone imprisonment on account of her participation in the freedom movement.

2. According to the petitioner on 10/8/83 the Secretary to the State of Maharashtra wrote to the Central Government recommending grant of pension to her. From 1/5/83 the State Government started paying freedom fighter pension to the petitioner. However, on 28/4/92 the Collector Kolhapur informed the petitioner about stoppage of pension. It appears that the Central Government turned down the petitioner's request for grant of pension on the ground that the petitioner was seven years of age at the time of her arrest and was sent to jail for convenience of her mother. Thereafter according to the petitioner she made several applications complaining about withdrawal of her pension. However, her applications were not considered and hence she has approached this court.

3. We have heard Mr. Karpe, the learned counsel for the petitioner. He contended that for grant of freedom fighter's pension, age of the person

concerned is not the criteria. In support of his submission the learned counsel relied on **Bhalchandra s/o Trimbakrao Vaidya v. The Union of India, through the Secretary to Govt. of India & Ors., 1995 (3) B.C.R. 370**. The learned counsel further contended that once the Mamlatdar had certified that the petitioner was freedom fighter that question could not have been reopened. In support of this submission the learned counsel relied on **Ramchandra D. Erande v. Union of India & Anr., 1997 (2) BCR 418**. He, therefore, submitted that the cancellation of freedom fighter pension of the petitioner be set aside and a direction be issued to the respondent that the petitioner should be awarded freedom fighter pension.

4. We find no substance in the petitioner's case. Admittedly the petitioner was seven years old

when she was taken to jail along with her mother. It is clear from the letter Exhibit-F dated 12th August, 1985 addressed by the Under Secretary to the Government of India to the petitioner that the petitioner was taken to jail along with her mother for her mother's convenience. Obviously, therefore, the petitioner was not taken to jail

because she had participated in freedom struggle. It is inconceivable that seven year old child would take part in freedom struggle. The judgments cited by Mr. Karpe have no application to the facts of the present case. In **Bhalchandra's case (supra)**, the petitioner therein was 16 years old. This case cannot be compared with the case of 7 year old child, who may not even have necessary understanding of the concept of freedom struggle.

6. Since there is no substance in the petition, the petition is dismissed.

(SMT. RANJANA DESAI,J.)

(A.P. DESHPANDE, J.)